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SERVICE DATE – SEPTEMBER 23, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 201X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—  
IN FRANKLIN COUNTY, IA

Decided: September 22, 2004

By decision and notice of interim trail use or abandonment (NITU) served on September 12, 2003, the Board granted the petition for exemption filed by Union Pacific Railroad Company (UP) for abandonment of a 7.84-mile line of railroad, in the western portion of the Bristow Subdivision, extending from milepost 318.66, near Hampton, to milepost 326.50, near Coulter, in Franklin County, IA. The exemption was subject to public use, environmental, and standard employee protective conditions, as well as a trail use condition authorizing a 180-day period for the Iowa Trails Council (Council), on behalf of the Franklin County Conservation Board, to negotiate an interim trail use/rail banking agreement with UP for the right-of-way involved in this proceeding. The negotiating period was extended through September 6, 2004, by a decision served on March 26, 2004.

On September 15, 2004, Council filed a request for an extension of the negotiating period for 180 days. Council states that an extension of time is necessary to finalize negotiations. By letter filed on September 16, 2004, UP concurs in the request to extend the NITU.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended to March 5, 2005.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The Council's request to extend the NITU negotiating period is granted.

2. The NITU negotiating period is extended until March 5, 2005.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary